

**STATE OF LOUISIANA**  
**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**IN THE MATTER OF:**

**CHALMETTE REFINING, L.L.C.**  
**Agency Interest No. 1376**

**PROCEEDINGS UNDER THE LOUISIANA**  
**ENVIRONMENTAL QUALITY ACT**  
**LA. R.S. 30:2001, ET SEQ.**

*	<b>Settlement Tracking No.</b>
*	<b>SA-WMM-05-0057</b>
*	
*	<b>Enforcement Tracking Nos.</b>
*	<b>MM-PP-01-0008</b>
*	<b>WE-CN-02-0005</b>
*	<b>MM-CN-02-0108</b>
*	<b>WE-CN-99-0170</b>
*	

**SETTLEMENT AGREEMENT**

## **INDEX**

<b>I.</b>	<b>AUTHORITY TO ENTER INTO SETTLEMENT .....</b>	<b>5</b>
<b>II.</b>	<b>APPLICABILITY AND BINDING EFFECT .....</b>	<b>5</b>
<b>III.</b>	<b>BENEFICIAL ENVIRONMENTAL PROJECTS.....</b>	<b>5</b>
<b>IV.</b>	<b>EFFECT OF SETTLEMENT.....</b>	<b>6</b>
<b>V.</b>	<b>GENERAL PROVISIONS.....</b>	<b>10</b>
<b>VI.</b>	<b>TERMINATION.....</b>	<b>14</b>
<b>VII.</b>	<b>SIGNATORIES.....</b>	<b>14</b>

The following Settlement Agreement ("Settlement") is hereby made and agreed to by and between **CHALMETTE REFINING, L.L.C. ("CRLLC")** and the **LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY, ("LDEQ")**, under authority granted by the Louisiana Environmental Quality Act, LSA- R.S. 30:2001, et seq., (the "LEQA") and regulations promulgated thereunder.

**WHEREAS**, CRLLC is a Delaware limited liability company authorized to do business in the State of Louisiana and is a person as that term is defined in La. R. S. 30:2004;

**WHEREAS**, CRLLC owns a petroleum refinery (the "Refinery") located at 500 West St. Bernard Highway in Chalmette, St. Bernard Parish, Louisiana;

**WHEREAS**, CRLLC, as owner and operator of the Refinery, is subject to the LEQA, other environmental statutes, and the regulations promulgated thereto;

**WHEREAS**, LDEQ issued to CRLLC a Notice of Potential Penalty (the "NOPP") dated September 27, 2001, Enforcement Tracking No. MM-PP-01-0008 and Agency Interest No. 1376;

**WHEREAS**, LDEQ issued to CRLLC a Consolidated Compliance Order and Notice of Potential Penalty dated May 15, 2002, Enforcement Tracking No. WE-CN-02-0005 and Agency Interest No. 1376;

**WHEREAS**, LDEQ issued to CRLLC a Consolidated Compliance Order and Notice of Potential Penalty dated May 20, 2003, Enforcement Tracking No. MM-CN-02-0108 and Agency Interest No. 1376;

**WHEREAS**, LDEQ issued to CRLLC a Consolidated Compliance Order and Notice of Potential Penalty dated August 16, 1999, Enforcement Tracking No. WE-CN-99-0170 and Agency Interest No. 1376;

**WHEREAS**, the Parties are aware of alleged compliance issues and violations at issue in a Notice of Violation dated August 20, 2002 and a Notice of Violation dated December 20, 2001 which were issued by the United States Environmental Protection Agency ("EPA") regarding alleged violations at the Refinery;

**WHEREAS**, CRLLC identified and self-reported certain potential violations of environmental regulations, including regulations pertaining to air permits, and agrees that settlement of these issues in this Settlement is the most expeditious method to resolve these potential violations;

**WHEREAS**, CRLLC voluntarily entered into negotiations with the LDEQ regarding the above referenced orders and actions as well as other potential compliance and enforcement issues arising under various statutes and regulations including, without limitation, the federal Clean Air Act, the LEQA, other federal and state statutes, and regulations and programs promulgated thereunder;

**WHEREAS**, LDEQ has participated in a nationwide, broad-based compliance and enforcement initiative with the EPA involving the petroleum refining industry and a consent decree ("Consent Decree") has been negotiated between LDEQ, the EPA, United States of America and CRLLC to resolve the Notice of Violation dated August 20, 2002 and the Notice of Violation dated December 20, 2001 to improve air quality, and resolve other alleged compliance issues, including issues related to the federal Clean Air Act, other federal and state statutes and regulations and programs promulgated thereunder;

**WHEREAS**, LDEQ has issued an Administrative Order on Consent dated May 24, 2005 to CRLLC ("Administrative Order on Consent" or "AOC") pursuant to which, among other things, CRLLC has agreed to purchase and install certain ambient air monitors (the "Air Monitors") in St. Bernard Parish, and to comply with the Title V permit application schedule set forth in the AOC, and to operate its emission sources in compliance with the interim emission limitations and monitoring and reporting requirements in the AOC;

**WHEREAS**, LDEQ desires that CRLLC donate the Air Monitors to LDEQ as set forth herein;

**WHEREAS**, LDEQ and CRLLC (collectively designated as the "Parties") agree that this Settlement, the Consent Decree and the Administrative Order on Consent are interrelated and intended to constitute a comprehensive means of resolving various existing or potential compliance issues and to provide for beneficial environmental projects, and that it is a condition precedent to this Settlement that the Consent Decree be executed by all of the parties thereto;

**WHEREAS**, LDEQ and CRLLC agree that this process is an innovative approach to resolve potential compliance issues while simultaneously advancing the goals of the federal Clean Air Act and LEQA;

**WHEREAS**, the Parties agree that this Settlement is in the public interest and that agreeing to this Settlement without further litigation is the most appropriate means of resolving the LDEQ's enforcement issues;

**WHEREAS**, in consideration of the terms and conditions set forth in this Settlement, including the conditions precedent to the effectiveness of this Settlement;

NOW, THEREFORE, without any admission of fact or law, the Parties hereby agree as follows:

**I. AUTHORITY TO ENTER INTO SETTLEMENT**

A. The Secretary of the LDEQ has the authority to enter into this Settlement pursuant to La. R.S. 30: 2001, *et seq.*, including, in pertinent part, La. R.S. 30: 2011.D(6), La. R.S. 30: 2025 and La. R.S. 30: 2050.7.

**II. APPLICABILITY AND BINDING EFFECT**

A. The provisions of the Settlement shall apply to LDEQ and CRLLC, its successors and assigns, its officers, managing representatives, employees in their capacities as such, its assignees and its delegates; and, as applicable, other persons/entities identified in this Settlement.

B. The Parties agree not to contest the validity of the Settlement in any subsequent proceeding to implement or enforce its terms.

**III. BENEFICIAL ENVIRONMENTAL PROJECT**

A. In addition to CRLLC's obligations under the Consent Decree to perform environmentally beneficial projects and its obligation to purchase and install the Air Monitors as described in the Administrative Order on Consent in the first sentence of Paragraph V thereof, and in the fifth sentence of Section 1 of Appendix B thereto, CRLLC shall donate those Air Monitors to LDEQ at the time of such installation as a Beneficial Environmental Project ("BEP").

B. CRLLC is responsible for the satisfactory completion of the BEP required under this Settlement in accordance with this Section. Upon completion of the BEP,

CRLLC shall submit to LDEQ a report certified as accurate under penalty of perjury by a responsible CRLLC official.

C. By signing this Settlement, CRLLC certifies that it is not required, and has no liability under any federal, state or local law or regulation or pursuant to any order of any court, to perform the BEP described in this Section. CRLLC further certifies that it has not applied for or received, and will not in the future apply for or receive: (1) credit as a beneficial environmental project or other penalty offset for the BEP performed under this Section in any other enforcement action other than those described herein; or (2) a deduction from any federal, state, or local tax based on CRLLC's participation in, performance of, or incurrence of costs related to, the BEP performed by CRLLC under this Section.

#### **IV. EFFECT OF SETTLEMENT**

A. This Settlement constitutes a compromise and settlement between the Parties, without any admission of or acknowledgment by CRLLC that it is liable for any violations, and is being executed in the interest of settling the claims of LDEQ and the State of Louisiana and avoiding for both Parties the expense and effort in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the LDEQ considered the factors for issuing civil penalties set forth in La. R. S. 30:2025(E) of the LEQA and in LAC 33:I.Chapter 7, as well as the rules relating to beneficial environmental projects set forth in LAC 33:I.Chapter 25. LDEQ is entering into this Settlement and is accepting a lower penalty amount than it normally would have accepted based on the merits of the case because LDEQ and CRLLC are parties to the Consent Decree. In the Consent Decree the State of Louisiana will receive its share of the overall

national penalty and other supplemental environmental projects. The settlement reflected in the Consent Decree was significantly enhanced by encompassing violations which were previously being addressed by the LDEQ. LDEQ believes by entering into this Settlement, the overall benefits to the environment and the citizens of Louisiana are greatly enhanced. The Consent Decree also provides injunctive relief against CRLLC to correct violations at its facilities.

B. In consideration of the terms and conditions of this Settlement, including any conditions precedent, LDEQ and the State of Louisiana fully compromise and settle, and grant CRLLC, its members and their affiliates, its operator ExxonMobil Oil Corporation, and their respective parent corporations, affiliates, employees, officers, directors, attorneys, and agents (collectively, "Released Parties") a full and complete release from any existing or potential civil liability of the Released Parties to LDEQ for: 1) any alleged violations or alleged noncompliance raised, or which could have been raised, by LDEQ in any order or penalty which LDEQ considered or could have considered for the alleged violations and matters described in LDEQ Compliance Orders/Notices of Potential Penalty with Enforcement Tracking No. MM-PP-01-0008, Enforcement Tracking No. WE-CN-02-0005, Enforcement Tracking No. MM-CN-02-0108, and Enforcement Tracking No. WE-CN-99-0170; 2) any potential violations or noncompliance disclosed to the LDEQ Enforcement Division in writing or otherwise known to the LDEQ Enforcement Division up to and through July 1, 2005 including, but not limited to, the following unauthorized discharges to the atmosphere:

Date of Release  
August 19, 2004  
December 11, 2004

Date of Letter(s)  
August 26, 2004  
December 16, 2004 and May 13, 2005



January 7, 2005  
January 19, 2005  
February 7, 2005  
March 10, 2005  
March 13, 2005  
March 31, 2005  
April 13, 2005  
April 17, 2005  
April 18, 2005  
April 19, 2005  
April 26, 2005  
May 19, 2005  
June 9, 2005

January 14, 2005  
January 26, 2005  
February 10, 2005  
March 23, 2005  
March 18, 2005  
April 7, 2005  
April 20, 2005  
April 22, 2005  
April 25, 2005  
April 26, 2005  
May 3, 2005  
May 26, 2005  
June 16, 2005 and June 27, 2005;

3) potential or actual violations or noncompliance that are resolved in accordance with the Administrative Order on Consent and/or the Consent Decree; and 4) areas of concern identified during the January 2005 LDEQ air quality inspection.

C. Neither by entering into this Settlement nor by taking any action in accordance with it (including performing the BEP required by this Settlement) or the terms of the Consent Decree or the Administrative Order on Consent, shall CRLLC nor any Released Party be deemed to have admitted any liability for any purpose or any responsibility for, or wrongdoing relating to, the matters addressed herein or therein or to have admitted any issues of law or fact related to or arising out of such matters. It is the intent of the Parties to this Settlement that the execution of this Settlement Agreement, the Administrative Order on Consent and the Consent Decree, the terms and conditions hereof and thereof, or any act of performance by CRLLC hereunder or thereunder shall not be admissible in any proceeding for the purpose of imputing, implying, or otherwise raising an inference of wrongdoing by CRLLC.

D. CRLLC agrees that the LDEQ may consider the Compliance Orders/Notices of Potential Penalty, this Settlement, the Administrative Order on

Consent, and the Consent Decree for the purpose of determining compliance history in connection with any future enforcement or permitting action by the LDEQ against CRLLC, and in any such action CRLLC shall be estopped from objecting to the above-referenced documents being offered as evidence for the purpose of proving the violations alleged therein for the sole purpose of determining CRLLC's compliance history in any such permitting or enforcement action.

E. This Settlement shall be considered a final order of the secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and CRLLC hereby waives any right to administrative or judicial review of the terms of this Settlement. CRLLC further expressly reserves any and all rights, defenses, claims, demands and causes of action which it may have with respect to any matter, action, event, claim, or proceeding relating in any way to the matters addressed in this Settlement against any person, firm, or corporation except as expressly provided herein or therein. CRLLC does not admit, and retains the right to contest in any subsequent proceedings, other than proceedings for the purpose of enforcing this Settlement, the validity of the facts or the conclusions of law contained herein. This Settlement, the obligations set forth in the Settlement, and the performance by CRLLC of any obligations under this Settlement shall not create obligations to, or create rights on behalf of, any person who is not a party to this Settlement except as otherwise expressly stated in this Settlement.

F. The Department and CRLLC have discussed the difficulties faced by CRLLC in complying with certain provisions of this Settlement and, in particular, the Administrative Order on Consent owing to the destruction caused by Hurricanes Katrina and Rita. The Parties recognize certain challenges CRLLC faces in returning the refinery

to optimum refining capacity, including dislocation of personnel, reliance on a single power source, flaring due to upset conditions and changes in air monitoring equipment and/or parameters. The Parties agree that CRLLC will notify the LDEQ, Office of Environmental Compliance, as soon as practicable when CRLLC foresees any problems associated with complying with either this Settlement Agreement or the Administrative Order on Consent. The Parties, by mutual written agreement, may amend the Administrative Order on Consent. Given the unusual circumstances prompted by Hurricanes Katrina and Rita, the LDEQ will exercise its enforcement discretion with respect to CRLLC's inability to comply with either this Settlement Agreement or the Administrative Order on Consent.

**V. GENERAL PROVISIONS**

A. **Audit Policy.** Nothing in this Settlement is intended to limit or disqualify CRLLC, on the grounds that information was not discovered and supplied voluntarily, from seeking to apply EPA's Audit Policy or any state or local audit policy to any violations or non-compliance that CRLLC discovers during the course of any investigation, audit, or enhanced monitoring that CRLLC is required to undertake pursuant to the Administrative Consent Order.

B. **Claim/Issue Preclusion.** In any subsequent administrative or judicial proceeding initiated by the LDEQ for injunctive relief, penalties, or other appropriate relief relating to CRLLC for violations not identified in Section IV (Effect of Settlement), the LDEQ may not assert or maintain that this Settlement constitutes a waiver, determination of, or otherwise obviates, any claim of CRLLC or defense of CRLLC whatsoever, or that this Settlement constitutes acceptance by CRLLC of any

interpretation or guidance issued by LDEQ related to the matters addressed in this Settlement.

C. **Enforceability of Obligations.** Obligations of CRLLC under this Settlement prior to the Effective Date shall be legally enforceable only on and after the Effective Date.

D. **Costs.** Each Party to this action shall bear its own costs and attorneys' fees.

E. **Public Documents.** All information and documents submitted by CRLLC to LDEQ pursuant to this Settlement shall be subject to public inspection in accordance with the respective statutes and regulations that are applicable to LDEQ, unless subject to legal privileges or protection or declared to be confidential by the Secretary of LDEQ in accordance with the respective state statutes or regulations.

F. **Notice.** Unless otherwise provided herein, notifications to or communications between the Parties shall be deemed submitted on the date they are postmarked and sent by U.S. Mail, postage pre-paid, which shall be sent by overnight mail or by certified or registered mail, return receipt requested. Each report, notification or other communication of CRLLC shall be submitted as specified in this Settlement. If the date for submission of a report, notification or other communication falls on a Saturday, Sunday or legal holiday, the report, notification or other communication will be deemed timely if it is submitted the next business day. Except as otherwise provided herein, all reports, notifications, certifications, or other communications required or allowed under this Settlement to be submitted or delivered to the LDEQ or CRLLC shall be addressed as follows:

**As to the LDEQ:**

Louisiana Department of Environmental Quality  
Attention: Administrator, Enforcement Division  
Office of Environmental Compliance  
Louisiana Department of Environmental Quality  
P.O. Box 4312  
Baton Rouge, LA. 70821-4312

**As to CRLLC:**

Refinery Manager  
Chalmette Refining, L.L.C.  
P. O. Box 1007  
Administrative Building  
Chalmette, LA 70044

Any Party may change either the notice recipient or the address for providing notices to it by giving the other Party written notice setting forth such new notice recipient or address. In addition, the nature and frequency of reports required by this Settlement Decree may be modified by mutual consent of the Parties. The consent of the LDEQ to such modification must be in the form of a written notification from LDEQ, but need not, if this Settlement is made a court order as provided in Paragraph V.I, be filed with the court to be effective.

G. **Modification.** This Settlement shall not be modified by any prior oral or written agreement, representation or understanding. Prior drafts of the Settlement shall not be used in any action involving the interpretation or enforcement of the Settlement. Non-material modifications to this Settlement shall be in writing, signed by the Parties but, if applicable, need not be filed with the court. For purposes of this Paragraph, modifications to schedules or the frequency of reporting obligations shall be considered non-material, provided that such changes are agreed upon in writing by LDEQ and

CRLLC. Material modifications to this Settlement shall be in writing, signed by the Parties, and shall be effective upon execution by the Parties or, if applicable, filing with the court. Specific provisions in this Settlement that govern specific types of modifications shall be effective as set forth in the specific provision governing the modification.

H. **Effective Date.** This Settlement, and the agreements contained herein, shall become final and effective ("Effective Date") as of the date when both of the following have occurred: 1) CRLLC and the Secretary of LDEQ shall have executed this Settlement in accordance with La. R.S. 30:2050.7, and 2) the Consent Decree has been executed by all of the parties thereto.

I. **Judicial Confirmation; Retention of Jurisdiction.** After signature by the LDEQ of this Settlement, CRLLC and the LDEQ may jointly file, in a Louisiana district court, a Joint Motion for Entry of a Consent Judgment to convert this Settlement to an order of the district court. If this Settlement is converted to a Consent Judgment by order of the district court, the district court shall retain jurisdiction over both the subject matter and the Parties to this Settlement for the duration of the performance of the terms and conditions of this Settlement for the purpose of enabling the Parties to apply to the district court for such further order, direction, and relief as may be necessary or appropriate for the construction or modification of this Settlement, or to effectuate or enforce compliance with its terms, or to resolve disputes.

J. **Public Comment and Entry.** The Parties agree and acknowledge that final approval by the LDEQ (and execution of this Settlement) is subject to the requirements of La. R.S. 30:2050.7, which provides for public notice of this Settlement in

newspapers of general circulation, and opportunity for public comment, consideration of any comments, and concurrence by the State Attorney General.

K. **Publication of Settlement.** CRLLC has caused a public notice advertisement to be placed in the official journal of the parish governing authority in St. Bernard Parish as well as a newspaper of general circulation in that parish. The advertisement, in form, wording and size approved by the LDEQ, announced the availability of this Settlement for the public view and comment and the opportunity for a public hearing. CRLLC has submitted a proof-of-publication affidavit to the LDEQ and, as of the date this Settlement is executed on behalf of the LDEQ, more than forty-five (45) days have elapsed since publication of the notice.

L. **Severability.** The provisions of this Settlement are severable. In the event any Section, Paragraph, Subparagraph, clause, provision or condition of this Settlement is declared unenforceable, all other Sections, Paragraphs, Subparagraphs, clauses, provisions or other conditions not affected shall remain in force and effect.

VI. **TERMINATION.** This Settlement may be subject to termination upon motion by CRLLC when CRLLC shall have substantially completed and satisfied all of the requirements of this Settlement.

VII. **SIGNATORIES.** Each of the undersigned representatives certifies that he or she is fully authorized to enter into this Settlement on behalf of such Parties, and to execute and to bind such Parties to this Settlement.

CHALMETTE REFINING, LLC

BY: J.A. Stroink  
J.A. Stroink  
Refinery Manager  
Chalmette Refining, LLC  
P.O. Box 1007  
Chalmette, LA 70044-1007

THUS DONE AND SIGNED in duplicate original before me this 6th day  
of October, 2005, at Baton Rouge, LA.

Joycelyn D. Robertson  
NOTARY PUBLIC (ID # 53463)

Joycelyn D. Robertson  
Notary Public No. 53463  
(Printed or Typed) Baton Rouge Parish  
State of Louisiana  
My Commission Is For Life

STATE OF LOUISIANA  
Mike D. McDaniel, Ph.D., Secretary  
Department of Environmental Quality

BY: Harold Leggett  
Harold Leggett, Ph.D., Assistant Secretary  
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 21st day  
of March, 2006, at Baton Rouge, Louisiana.

Jed H. Boyles, II  
NOTARY PUBLIC (ID # 54516)

Jed H. Boyles, II  
(Printed or Typed)

Approved: Harold Leggett  
Harold Leggett, Ph.D.  
Assistant Secretary, Office of Environmental Compliance